

SENATE CHAMBER ;  
WEDNESDAY March 25, 1846 ;  
10 O'CLOCK A. M.

Senate met, pursuant to adjournment—roll called and a quorum present.

Journal of the preceding day was read and adopted.

Senator Hogg, Chairman of the committee on the Judiciary, to whom was referred—a bill to enable the Governor to fill certain vacancies of office that may hereafter occur; which originated in the House; a majority of said committee report back to the Senate with the following amendments.

In 1st section 4th line, after the word “as” strike out “are” and insert “have been;” In 6th line after the word “occur,” insert “by death or resignation.” In 7th line strike out all after the word “Legislature” to the end of the section, and insert “which require the consent of the Senate.”

Also to whom was referred, “a bill to exempt from liabilities, any witness who may fail or refuse to attend as such, in any civil suit, any court out of the county in which he resides;” report that the majority of the committee recommend the passage of the bill without amendments.

Also to whom was referred “a bill to establish courts of conciliation;” reported the same back to the Senate with a substitute, and recommended its adoption.

Senator McKinney, Chairman of the select committee, to whom was referred a Joint resolution for the sale of the Public domain to the United States; reported the same back to the Senate by substitute, and recommended its adoption.

Also a Resolution of the Senate to inquire into the expediency of a sale of the Public Domain &c., made the following report upon it.

## R E P O R T

COMMITTEE-ROOM, 24th March, 1846.

*To the Hon. Edward Burleson,*

*President pro tem. of the Senate.*

The committee, raised by the Senate for the purpose of taking into consideration, the propriety of transferring to the Government of the United States, all of the public domain of Texas, on certain conditions, and reporting a corresponding bill to that end, have had the same under consideration, and have instructed me to report—that they deem it is now the most important object to be consummated by the State of Texas, the

adjustment and payment of the debt contracted by and under the Government of the Republic of Texas; a measure necessary to the redemption of plighted faith, from which no people should feel themselves released by any change of government, and necessary in order that justice may be administered to those holding claims against the Republic of Texas, many of whom have rendered timely and essential services at an important crisis.

Nevertheless, your committee are clearly of opinion; that there should be a legislative classification of all debts against the Republic of Texas; and to each should be awarded such relief and payment as is due, according to the merits of each creditor; for your committee cannot consent that parties who have advanced cash, and rendered important services to Texas, shall be placed on an equal footing, with those who hold the liabilities of the Republic of Texas for which they have paid not more than twenty cents on the dollar, and for which Texas received perhaps a less amount, as it is notorious and universally admitted, that a great portion of the liabilities now in circulation, were issued and paid out at about sixteen cents on the dollar.

Your committee are of opinion, that a transfer of the unappropriated domain of Texas to the United States, is an object mutually desirable both to Texas and the United States.— Among other reasons, your committee find the revenues arising from impost duties, which were originally expressly pledged for the payment of the bonds previously issued by the Government of Texas, under the terms of annexation, transferred to the Government of the United States, without any reservation whatever. It was admitted, by high authority, that the terms of annexation under the Joint Resolution of the Congress of the United States, contained unfavorable provisions to the interests of Texas; yet were they, by the same high authority, assured that all reasonable and just requests made on the part of Texas, to the United States, would be complied with; and the unconditional acceptance, on the part of Texas, of the Joint Resolution, was urged on that ground, and accepted by Texas, without making any reservation or provision for the discharge of the national debt of the Republic of Texas—to discharge which the Legislature of the State is now required to adopt such measures as to them may seem best calculated to accomplish that object. The control of our public domain is indispensable to the Government of the United States, in order to carry out, fully, her Indian policy; and it would yield a large

revenue to that Government, over and above what it would yield to the State of Texas. In her present embarrassed condition, it would require a long time to sectionize the country, and place the lands in a situation to be made available; with the Government of the United States, it is different. And Texas, in the opinion of your committee, in order to speedily accomplish the desirable object of liquidating the national debt of the Republic of Texas, would do well to make a transfer, to that end, of the public domain, even at a sacrifice; that her citizens may be relieved from the perplexities of multifarious negotiations and legislation, and permitted to dedicate themselves to the quiet and peaceful cultivation of the soil, with the pleasant reflection that they have only to be frugal and industrious, and contribute in the payment of a small tax towards the current expenses of a State Government and purposes of useful education; and that their way to happiness and prosperity is onward.

Your committee are of opinion, that under the provisions of the Constitution of the State, two bills will be required to accomplish the object contemplated. The first to classify the national debt of the Republic of Texas, and the second to transfer the public domain of the State of Texas, for the purpose of discharging that debt; and have, therefore, drawn two bills to correspond with their views, which, together with this report, are respectfully submitted.

THOS. F. M'KINNEY, Chairman.

## A B I L L ,

To be entitled "An Act to classify the Liabilities of the Republic of Texas."

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That all liabilities which have been legally issued by and under the authority of the Republic of Texas, prior to the organization of the State Government, shall be classed, for the purpose of ascertaining their intrinsic value, into four classes

SECTION 2. *Be it further enacted,* That all liabilities issued as contemplated in the first section of this act, and remaining in original hands, and which have never been transferred to other parties— where the same have been issued by the Government, and received by the parties at par value, for services rendered, cash or munitions of war, or other direct aid in the

revolutionary contest with Mexico, shall compose the first class, and be paid at par.

SECTION 3. *Be it further enacted*, That all liabilities issued as contemplated in the first section of this act, and remaining in original hands as contemplated in the second section of this act, where the same have been issued by the Government, and received by the parties at a discount, shall be classed at the same rate of discount—to be ascertained from the books and records of the Government—as issued and paid to the parties to whom they were issued, and holding the same, shall compose the second class, and paid at the same rates of value or discount as issued.

SECTION 4. *Be it further enacted*, That the liabilities which shall compose the third class, shall be all those, of whatsoever character or denomination, issued as contemplated in the first section of this act, and not embraced in the first and second class, under the classification contemplated by this act, which shall be classed at, and paid, at the rates of twenty cents on the dollar of the face thereof.

SECTION 5. *Be it further enacted*; That there shall be kept a regular duplicate register, as near as practicable, of all liabilities presented and classed, as provided for in the foregoing section; which registers shall show to whom such liabilities were issued and paid originally, and at what value, and the price at which they are classed, and the amount, if any, which results on said liabilities in favor of the Government; which amounts shall compose a fund, and remain in the hands of the Government of the State, until the final classification of the liabilities of the Republic of Texas; after which, if there remain arising from the proceeds of the public domain, a surplus in the Treasury, after providing for the payment of the first, second and third class of the classified obligations of the Republic of Texas, a pro rata amount shall be issued to the original holder or receiver of said liabilities respectively, producing said results in favor of the Republic; which amounts shall compose the fourth class.

## A B I L L ,

To be entitled "An Act for the discharge of the Public Debt of the Republic of Texas."

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That the Governor be, and is hereby, authorized, through

our Senators and Representatives in Congress, to transfer to the Government of the United States, all of the public domain of the State, in the manner and upon the conditions hereinafter specified.

SECTION 2. *Be it further enacted*, That the public domain transferred as contemplated in the first section, shall be liable for the location and discharge of all claims heretofore created prior to the organization of the State Government of Texas, which are both legal and equitable in their character provided, however, that the provisions of this act shall not be construed to extend to any claims to which the proper and legal voucher shall not have been issued to the party, within six months from the publication of the transfer contemplated in the first section of this act.

SECTION 3. *Be it further enacted*, That the United States be required, as one of the conditions of the transfer contemplated by this act, to pay to the State of Texas, \$50,000 on the 1st day of January, 1847, \$50,000 on the next two successive Januarys, viz., 1848 and 1849.

SECTION 4. *Be it further enacted*, That, as another condition of the transfer contemplated in the first section of this act, the United States shall place to the credit of the State of Texas, with the Government of the United States, fifteen millions of dollars, to be paid at the expiration of three years from the date of the transfer as hereinafter prescribed, viz., after a classification of the liabilities of the Republic of Texas, and the proper vouchers duly authenticated of the same being issued, which shall be done within three years from the date of said transfer of the public domain, and prior to the payment of any portion of the amount contemplated by this section, by the United States the United States shall pay, after being duly notified by the Governor of Texas, of the various vouchers issued under the classification herein contemplated, if it does not exceed the amount to the credit of Texas, the whole amount of such vouchers; should the amount, however, exceed the amount of credit of the State with the Government of the United States, then, and in that case, the United States shall pay on each a pro rata value in cash or in their bonds, bearing an interest of three per cent. per annum, at their option.

SECTION 5. *Be it further enacted*, That at the expiration of five years from and after the passage of this act, should there be a surplus to the credit of Texas with the Government of the United States, after the liquidation of the classified debt of the Republic of Texas, as contemplated by this act, such amount

shall be paid over to the State, in cash, or in bonds bearing an interest at three per cent. per annum, payable semi-annually.

SECTION 6. *Be it further enacted*, That the Governor be, and he is hereby, authorized to change the character of the transfer, on condition that the Government of the United States make an advance to the State of Texas, of an amount not less than ten millions—to be paid and applied in manner and form as contemplated in the preceding sections of this act, and conditioned to pay over to Texas one-half of the nett proceeds of the public domain transferred under this act, first deducting the ten millions of dollars advanced under the provisions of this section.

SECTION 7. *Be it further enacted*, That the Governor be, and he is hereby, authorized, if in his judgment deemed proper, to dispense with the condition contained in the third section of this act.

SECTION 8. *Be it further enacted*, That the authority vested in the Governor by this act, shall remain in full force and effect until the 1st of January, 1847, and not thereafter.

SECTION 9. *Be it further enacted*, That so soon as the Governor of the State shall have concluded the transfer of the public domain, he shall give notice, through the proper officers, and suspend all locations of public domain, and the same shall thereafter be located and patented by and under the directions of the Government of the United States.

SECTION 10. *Be it further enacted*, That this act be in force from and after its passage.

Senator Wallace dissented from the report.

On motion of Senator Williamson, fifty copies of the bills and report were ordered to be printed.

Senator Miller, one of the committee on Engrossed Bills, reported the following bills correctly engrossed:

A bill amending the 8th and 11th sections of an act to incorporate Herman's University.

A bill to prohibit individuals from issuing bills, checks, or promissory notes or other paper to circulate as money.

A bill to authorize the Commissioner of the General Land Office, to issue patents where land scrip has been located in two surveys.

And a bill to continue in office, certain civil and militia officers commissioned under authority of the late Republic of Texas.

Senator Miller one of the committee on Enrolled Bills, reported the following bills correctly enrolled:

An act authorizing the Governor of the State of Texas, to cede and transfer to the United States, all of the property of what description soever, embraced in and contemplated by the joint resolution of both Houses of the United States Congress approved March 1st, 1845, and the 8th section of article 13th of the Constitution.

An act to create the county of Hopkins; and

An act to authorize parties to suits to appear therein in person.

Senator Kinney, Chairman of Select committee, to whom was referred a bill for the liquidation and adjustment of the public debt, made the following report:

COMMITTEE ROOM, }  
24th March, 1846 }

*To the Honorable Edward Burleson,  
President pro tem. of the Senate:*

The committee to whom was referred a bill entitled "An Act for the liquidation and adjustment of the Public Debt," ask leave to report the same back to the Senate, with certain proposed amendments, in schedule marked "A," and to recommend its passage.

The committee do not concur in opinion, in relation to the amendment which proposed to strike out the 4th and 5th sections of the bill. These sections give to the tribunal proposed to be established, the power of a court of law and equity; and to their decisions, when not appealed from, the force and effects of judgments, and allow appeals to the State or claimants, to the Supreme or District Courts, when dissatisfied with the decision of the Commissioners. A majority of the committee are of the opinion that this power, perhaps, cannot be safely conferred upon the Commissioners, but that their duties should be confined to examining, classifying and reporting the claims to the Legislature, for its approval or rejection; while a minority of the committee believe that a tribunal clothed only with the authority of an examining court, whose decisions are not to be binding on the parties, falls entirely short of the great objects intended to be accomplished by the bill, namely—the liquidation and adjustment of the public debt.

If it be the duty of the State to settle and pay its debt, by such means as it may possess in its public property, the obligar-

tion is certainly not less binding to create some tribunal before which claims may be proved up, and finally established, or to open courts of law to their adjudication. The latter course would be attended with difficulties and embarrassments not easily removed; while the present bill if not deprived of the power necessary to give to its decisions the power and sanction of judgments of law, is, in the opinion of the minority of the committee, well calculated to secure, in the simplest and most practicable manner, the rights of creditors and claimants, without endangering the interests of the State.

It has been suggested to the chairman of the committee, that it may be advisable to establish, in the bill, a uniform rate at which treasury notes shall be admitted and allowed by the Commissioners; and to provide for the payment of the claims established by the Commissioners, in land-scrip, at a certain rate per acre, to be surveyed at their own expense, if no other mode of payment should be provided; but the committee have not these matters under consideration, and they are alluded to here as suggestions only, for the consideration of the Senate.

H. L. KINNEY, *Chairman.*

## A B I L L ,

To be entitled "An Act for the liquidation and adjustment of the Public Debt."

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That there shall be, and is, established, a commission of three persons, to be appointed by the Governor, with the concurrence of the Senate, for the purpose of examining, allowing, and determining, any and all claims, of whatsoever nature or description, which may be now outstanding and unpaid, whether held by citizens or otherwise, against the late Republic of Texas.

SECTION 2. *Be it further enacted,* That the Commissioners shall act under the obligation of an oath, to discharge their duties faithfully and impartially; and shall require all claims allowed, to be supported by legal testimony; and shall severally, have authority to administer an oath; and shall hold the first session at the county seat, in all the old counties in the State, at such times as said Commissioners shall appoint, by giving thirty days previous notice, in writing, to the sheriffs and



clerks of the courts of said counties—one session, at least, to be held in each of said counties, before the meeting of the next Legislature.

SECTION 3. The Commissioners shall ascertain, as nearly as practicable, the actual time of emission and payment from the treasury, of such notes bonds and certificates of stock appertaining to the public debt, as may be presented to them and shall allow to the holders thereof, only the value thereof at the time of said payment or emission: provided, that the dates of the treasury notes shall not be conclusive evidence of their value, or of the time of their emission by the Government.

SECTION 4. The Commissioners shall possess, in relation to all matters within their jurisdiction, the powers of a court of law and equity; and their decisions shall have the force and effect of a judgment. [Committee strikes out sec. 4.]

SECTION 5. Appeals from any of the decisions of the Commissioners may be taken, and shall be allowed to the claimants, in behalf of individuals, and to the State, to either the District or Supreme Court—at the terms next held after said decisions shall be made, and not thereafter; to the former, when questions involving facts are to be settled; to the latter, when only questions of law are to be determined—the appellate tribunals being bound to carry this law into full effect.

SECTION 6. Contracts and unliquidated outstanding claims against the Republic of Texas shall be allowed, according to the par value of the funds in which they were, by law, payable at the time they became due, upon satisfactory proof of their existence.

SECTION 7. It shall be the duty of the Attorney General and such other counsel as the Executive may deem necessary to employ, (if any) to represent the State, in all cases before the Commissioners, who shall be entitled to receive such reasonable compensation as shall be allowed by law.

SECTION 8. The Commissioners shall be allowed to employ a Secretary, who shall be entitled to such compensation for his services as they shall determine.

SECTION 9. The Commissioners shall make their report to the executive, stating and classifying the claims allowed by them, with such information in relation thereto as may be deemed necessary, on or before the meeting of the next Legislature, or when it shall be required.

SECTION 10. All claims or demands against the Republic of Texas, which shall not be submitted for allowance before

said Commissioners, at or before the time prescribed for the last session of said Commission, shall be and remain forever, and perpetually, barred against payment or allowance by the Legislature, or otherwise.

SECTION 11. No grant or appropriation of any portion of the public domain shall be made by the State, during the pendency of this commission, unless it be to carry out the laws already in force, or to render the same more available in the payment of the public debt.

SECTION 12. In cases of appeal from the decision of the Commissioners by the Government, if it shall not obtain a reduction of the amounts allowed by the Commissioners, the State shall be liable for the costs of the appeal; and in like manner, if a claimant or creditor shall appeal, and shall not recover a larger sum than was allowed by the Commissioners, such creditor or claimant shall be liable to the costs of appeal.

Amendments adopted, and 50 copies of the bill and report ordered to be printed.

Senator Parker offered a resolution in relation to the pay of R. M. Potter, as interpreter to Senator Navarro; which was laid on the table for one day.

Senator Wood, Chairman of the committee of Conference on the part of the Senate, on the amendments of the House to a bill creating the county of Polk, recommended that the Senate concur in the amendments of the House; report adopted.

Senator Kinney presented the petition of the Sutlers of the Army of Occupation, praying to be released from impost duties on goods imported into Texas; read and referred with accompanying documents to the Judiciary committee.

#### ORDERS OF THE DAY

Bill to repeal the statutes on rents; rejected.

A bill defining the mode of conveying property, in which the wife has an interest; laid on the table.

Report of the Judiciary committee recommending the rejection of the petition of A. Huston; adopted.

A message was received from the House informing the Senate that the House had passed a bill originating in the Senate, to authorize the corporation of Galveston to levy a tax for the support of free schools.

Bill to allow defendants to plead a partial failure of consideration; laid on the table until to-morrow 10 o'clock.

Bill to create a new county out of the counties of Gonzales and Bexar, to be called the county of Guadalupe; laid on the table.

Bill to create and organize the county of Tyler, after being amended passed to its 3d reading.

Bill to define the boundary of the county of Matagorda passed to 3d reading.

Bill better to define and fix the boundary of the county of Victoria; passed to 3d reading.

Bill defining the limits and boundaries of Jackson county passed to 3d reading.

Bill to create the county of Calhoun, after being amended was passed to 3d reading.

Report of the Joint Select committee on the memorials of Jas. Hamilton—Wm. S. Whetmore and Jas. Holford.

Senator ——— moved to strike out "final" before "adjustment;" carried.

On motion of Senator Williamson, the report separate from the resolution; was adopted.

Senator Wallace moved to lay the resolution on the table.

*Yeas.* Senators, Bagby, Brashear, Grimes, Hogg, McKinney, and Wallace.—6.

*Nays.* Senators, Bourland, Burleson, Jewett, Kinney, McNeel, Miller, Navarro, Parker, Phillips, Robinson, Williams, Williamson and Wood.—13. Lost.

Senator McNeel offered a substitute for the resolution, being a joint resolution complimentary to Gen. Jas. Hamilton.

On the adoption of the substitute, the yeas and nays stood as follows:

*Yeas.* Senators, Bagby, Bourland, Brashear, Burleson, Grimes, Jewett, Kinney, McKinney, McNeel, Miller, Navarro, Parker, Robinson, Williams, Williamson, and Wood.—16.

*Nays.* Senators, Hogg, Phillips and Wallace.—3. Adopted.

Senator Williamson moved a suspension of the rule.

*Yeas.* Senators, Bourland, Burleson, Jewett, Kinney, McKinney, McNeel, Miller, Robinson, Williams, Williamson and Wood.—11.

*Nays.* Senators, Bagby, Brashear, Grimes, Hogg, Navarro, Parker, Phillips and Wallace.—8. Lost.

On motion, the Senate adjourned until 10 o'clock A. M. tomorrow.